

## **FINAL STATEMENT OF REASONS**

### **1) The Update to the Initial Statement of Reasons**

There are no changes to the initial statement of reasons, which is hereby incorporated by reference, with the exception of the following:

The regulation originally specified the Certificate of Driving Skill form (DL170ETP, Rev. 9/02) which is to be completed when an individual is certified to drive commercial vehicles. Throughout the regulation, reference to this form has been revised to indicate the current version of the form, DL 170ETP, Rev. 11/02. During the course of the comment period, the form was pending final completion. A few grammatical corrections have been made to the form and the form is now finalized with a new revision date.

The regulation originally specified the Commercial Driving Performance Evaluation (DPE) Route and Directions Form (DL814ETP, Rev. 10/01) which documents the primary and alternate driving test routes. Throughout the regulation, reference to this form has been revised to indicate the current version of the form, DL814ETP, Rev. 2/03. The form was revised to add the employer number which is used as supplemental information in order to identify the employer.

#### **Section 25.06(c)**

A minor punctuation error was corrected in this subparagraph.

#### **Section 25.08**

This section has been revised to reflect minor adjustments in language and punctuation.

#### **Section 25.10(e)**

The Federal Highway Motor Carrier Safety Administration has been corrected to read Federal Motor Carrier Safety Administration.

#### **Section 25.11**

This section was originally titled “Quality Assurance Program.” This title of this section has been renamed “Quality Assurance Oversight.” The word change from “program” to “oversight” is more indicative of the objective of the section. An identical change was also made in the “Guidelines for Employer Testing Program Sanctions.”

#### **Section 25.14**

Subparagraph (c)(3) and (4) have been corrected with minor punctuation marks.

Subparagraph (c)(19) has been updated to include the area code and extension. This was an oversight and these items are required on the form identified in this section.

#### **Section 25.15(c)**

This subparagraph has been changed to delete the hyphen, which is not necessary.

#### **Section 25.17**

The regulation originally specified the Voluntary Cancellation Request form (DL520CETP, Rev. 5/97) that is to be completed when an active employer wants to cancel its employer number. Throughout the regulation, reference to this form has been revised to indicate the current version of the form, DL520ETP, Rev. 11/02. The form was revised to correct the mail station from J254 to H275 for submitting the form to the department. The form was also revised to show the correct reference of the DL 170 that is now known as the DL170ETP form.

Subparagraph (a)(2) has been revised to indicate “business address, city, state, and zip code” which is the title of the information required on the form.

Subparagraph (b) has been revised to be consistent with the language in Section 25.18(f).

#### **Section 25.18**

Subparagraph (b) has been revised to correct a typographical error. The correct revision date of the “Guidelines for Employer Testing Program Sanctions” is 9/3/02.

Subparagraph (f) has been revised to delete the word “a” for clarity.

Subparagraph (g) has been revised to change the word “operator” to “operation of a motor vehicle. This revised phrase provides a better explanation of what is meant by a negligent operator for clarity.

#### **Section 25.19(e)**

This subparagraph has been revised to indicate a pull notice printout. This clarifies the specific printout that is referenced in this section.

#### **Section 25.22(a)(4)**

This subparagraph has been revised to add the word “motor” for clarity.

### **2) Imposition of Mandate on Local Agencies or School Districts**

The department’s regulatory action adopting Sections 25.06 through 25.22 in Article 2.1, Chapter 1, Division 1 of Title 13, does not impose any mandate on local agencies or school districts and imposes (1) no cost or savings to any state agency, (2) no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, (3) no other

discretionary cost or savings to local agencies, and (4) no cost or savings in federal funding to the state. No studies or data were relied upon to make this determination.

### **3) Summary of Comments Received and Department Response**

*W-1 COMMENT: Brent Dingel, Wilburn Construction Inc – Letter dated 1/2/03*  
Mr. Dingle made the following comments:

#### **COMMENT 1.**

This new proposal adds new costs, contrary to what this document states on page 3 of the notice: “The department is not aware of any cost impact that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.”

#### **RESPONSE:**

The department is authorized in Part 383 of Title 49 of the Code of Federal Regulations and Vehicle Code Section 15250 to use third party testers to conduct commercial drive tests. However, these authorities do not provide sufficient detail to be functional without additional regulations. The costs incurred by employers as a result of voluntary participation in this program may be offset by eliminating one or more trips to test a driver in a local field office. The industries that participate in this program benefit by being allowed to test their drivers at approved sites throughout the state without having to schedule time at a department commercial drive test facility. Additionally, the public and the department benefit by the reduction of lines in the various field offices around the state. Specific costs are described below.

#### **COMMENT 2.**

“This section (25.16) states that drivers will be randomly be retested once a year. Retesting will cost more money to the employer who will have to pick up the tab for fuel, wages, wear [sic] and tear on the commercial vehicle not to mention the loss of time at work.”

#### **RESPONSE:**

Title 49 of the Code of Federal Regulations, part 383, Subpart E, §383.75 (a)(2)(iv) requires that, at least on an annual basis, State employees take the tests actually administered by the third party as if the State employee were a test applicant, or that States test a sample of drivers who were examined by the third party to compare pass/fail results. California is adopting the latter alternative in the interest of public safety and to protect the State and the employer from possible liability. Failure to comply with this federal mandate could also result in the loss of federal highway funds for California.

#### **COMMENT 3.**

He suggests that the examiners will have to have additional training (under section 25.22). This additional training will be at the burden of the employer, again spending private money to enforce the State’s new regulations.

**RESPONSE:**

Title 49 of the Code of Federal Regulations, Part 383, Subpart E, §383.75(a)(2)(iii) requires that all third party examiners meet the same qualification and training standards as the State examiners to the extent necessary to conduct skills tests in compliance with Subparts G and H of the Federal Motor Carrier Safety Regulations Handbook. State of California Vehicle Code §15250 (c)(2)(c) requires third party examiners to meet the same qualifications and training standards as the department's examiners. California must comply with the federal requirement of third party examiner training. Failure to comply with the federal regulation and state statutes for third party Examiners could result in the loss of federal highway funds for California. In the interest of public safety and to protect the State and Employer from possible liability, California may require additional department sponsored training when statutory or program changes warrant the updating of the examiner testing skills.

**4) Determination of Alternatives**

No reasonable alternative considered by the department, or that has otherwise been identified and brought to the attention of the department, would be more effective in carrying out the purpose for which these regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed regulations. During the rulemaking process, no alternative that would lessen the adverse economic impact on small business was submitted.